

REMARKS

I. Claims Status

Claims 1-103 and 121-135 are pending and under examination. The Office Action at page 1 lists the disposition of claims 1-103 and 121-130, however there is no listing of the status of claims 131-135. Applicants' invite the Examiner to comment on the status of claims 131-135, which claims were introduced in the Preliminary Amendment filed on February 15, 2006.

II. Rejection under 103(a)

On page 2 of the Office Action, the Examiner rejects claims 1-103 and 121-130 under 103(a) for allegedly being unpatentable over Mouzin et al (EP0068999)("Mouzin"). The Examiner alleges that Mouzin teaches cyclopropane carboxamide compounds corresponding to those recited in the instant claims. The Examiner alleges that Mouzin teaches cyclopropane carboxamide compounds on page 1, and page 3, line 15, where N-R3R4 form an N-heterocyclic ring. The Examiner also alleges that other structurally related compounds would have been obvious to one skilled in the art.

Applicants traverse the rejection and respectfully request reconsideration.

Firstly, Mouzin neither teaches the full scope of Applicants' claimed compounds, nor provides a suggestion or motivation for making Applicants' claimed compounds.

Secondly, the Examiner has not established the underlying factual inquiries involving: (1) the scope and content of prior art, (2) differences between the claims and the prior art, (3) the level of ordinary skill in the pertinent art, and (4) any secondary considerations when present, such factual inquiries also being known as the "*Graham* factors".

Applicants do not believe that Mouzin's teaching of cyclopropane carboxamide compounds which may form an N-heterocyclic ring (N-R3R4) is enough factual basis for a *prima facie* case of obviousness.

Applicants respectfully point out MPEP§ 2141(III) which recites: "The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988. 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 550 U.S. at ____, 82 USPQ2d at 1396."

Mouzin describes 1-aryl 2-aminomethyl cyclopropane carboxamide (Z) compounds where "R3 and R4 possibly also forming with the adjacent nitrogen atom a heterocycle having 5 or 6 members, possibly containing an additional heteroatom selected from among nitrogen and oxygen." See the disclosure of US4478836, abstract and at column 2, lines 11-14. US4478836 is the English equivalent document corresponding to the disclosure of EP0068999, i.e. Mouzin. Applicants are submitting an IDS citing US4478836, concurrently with this communication.

From this teaching, Mouzin describes cyclopropane carboxamide compounds that may form a 5 or 6 membered heterocyclic ring at N-R3/R4 of Mouzin's formula I. Applicants' claimed compounds comprise substituent Q attached to carbon which is attached to the cyclopropane carboxamide. (See Applicants' Claim 1, formula I, substituents Q(i)-(vii).) Substituent Q of Applicants' claimed compounds are piperazinyl or piperidinyl with various substituents attached to the heterocycle. Mouzin's teachings do not offer that the N-R3/R4 heterocyclic may be further substituted. Therefore Applicants' claimed compounds are beyond the scope of Mouzin's the teachings with regard to N-R3/R4. Mouzin makes no suggestion of any substituents that may be attached to the N-R3/R4 moiety, let alone whether such alterations will maintain or enhance the therapeutic activity of the compounds.

In fact only one working example in Mouzin, i.e. Example 9, embodies a molecule with an N-R3/R4 heterocycle. Mouzin's Example 9, however, embodies a morpholinyl N-R3/R4 moiety. Applicants' Q does not encompass a morpholinyl moiety. There is no other explicit teaching of the N-R3/R4

heterocyclic-containing compounds, and specifically no explicit teaching of the piperazinyl or piperidinyl ring as N-R3/R4, let alone any teaching of further substituted heterocycle compounds, similar to Applicants' Q(i)-(vii)-containing compounds. Applicants' claimed invention cannot be envisioned from the teachings of Mouzin.

There is no teaching, let alone a suggestion or motivation, provided by Mouzin to further substitute Mouzin's compounds in order to make Applicants' compounds. Furthermore, there is no expectation that compounds as claimed by Applicants will have any desirable properties.

It is clear that Applicants' claimed compounds are different from the compounds of Mouzin and no teaching, suggestion or motivation is provided to make other structurally related compounds that are similar to Applicants' claimed compounds.

For the reasons stated hereinabove, the Examiner has not established a *prima facie* case of obviousness, and Applicants' respectfully request that the rejection under 103(a) be withdrawn.

If a telephone interview would be of assistance in advancing prosecution of the above-identified application, Applicants invite the Examiner to telephone the undersigned agent at the number provided below.

The fee for two months extension of time is being paid concurrently with the filing of this communication. If any additional fee is required, authorization is hereby given to charge such fee, or any overpayment, to Deposit Account Number 503201.

Respectfully submitted,

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